IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.1153 of 2006

Shri Annasaheb Raghunath Mane & ors. Petitioners
Vs.
Arth Enterprises Ltd. & anr. Respondents

Mr.J.S.Deo for petitioners.
Mr.Pramod Kothare h/f. Mr.K.S.Patil for respondents.

CORAM: B.H.MARLAPALLE,J.

June 21, 2006.

P.C.

. Heard Mr.Deo, the learned counsel for the plaintiffs, whose application at Exhibit 10 filed in Civil Suit No.260 of 2005 came to be rejected by the impugned order dated 21/11/2005 passed by the learned Addl. Judge, Small Causes Court at Pune.

. The plaintiff claims that the suit property viz. the agricultural land admeasuring 9 acres and 20 gunthas is owned by him and the same was given on lease to the respondent no.1-Company i.e. M/s. Arth Enterprises Ltd. It is further contended that as per the knowledge of the petitioner the leased agricultural land was hypothecated by the respondent no.1 in favour of the Small Scale Industrial Development Bank for obtaining loan and the said Bank by invoking the provisions of Section 13(4)(a) of the

Securitisation Act, 2002 has taken possession of the said property. If the secured creditor has taken possession of the suit property, the petitioner has the remedy of filing an appeal under Section 17 of the Securitisation Act before the Debt Recovery Tribunal and when such a remedy is available, as per the learned Judge of the Court below, it was not necessary for the Bank being impleaded as Defendant No.2. This view taken by the trial Court does not call for any interference under Article 227 of the Constitution and the action taken under the Securitisation Act will have to be challenged before the forum created under the very same Act if the petitioner is aggrieved by such action.

. The petition is, therefore, rejected summarily with liberty to the petitioner to file an appeal before the Debt Recovery Tribunal at Pune under Section 17 of the Securitisation Act, 2002.

(B.H.MARLAPALLE,J.)